



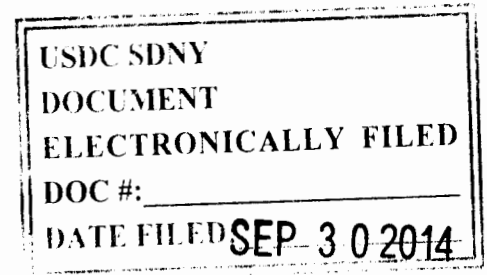
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September 30, 2014

Via Electronic Mail

The Honorable Katherine B. Forrest
United States District Judge
United States District Court
40 Foley Square
New York, New York 10004



Re: *United States v. Haroon Aswat*, 04 Crim. 356 (KBF)

Your Honor:

We write respectfully to request that the Court appoint us, pursuant to the Criminal Justice Act, to represent Haroon Aswat.

Haroon Aswat is a 40 year-old citizen of the United Kingdom who suffers from paranoid schizophrenia. He is charged with material support of a designated terrorist organization based on his alleged role in attempting to establish a jihadist training camp in Bly, Oregon in 1999 and 2000.

Mr. Aswat was first arrested in Zambia in July 2005. He was subsequently deported to the UK, where he was detained on a provisional warrant. On September 29, 2005, the United States made a formal request for extradition based on the charges in this indictment.

For the past nine years, Mr. Aswat has challenged his extradition in UK tribunals and with the European Court of Human Rights claiming that, because of his mental illness, detention at the MCC would constitute extreme ill treatment in violation of Article 3 of the European Convention prohibiting torture and/or inhuman and degrading treatment. Mr. Aswat prevailed before the European Court in April 2013. Crediting the medical evidence showing that Mr. Aswat "suffer[ed] from an enduring mental disorder, namely paranoid schizophrenia," the Court found that Mr. Aswat required detention and treatment in a medical hospital as opposed to a jail. Because the U.S. government had failed to indicate where Mr. Aswat would be held, and the MCC did not constitute a medical hospital, the Court concluded that "[t]here would be a violation of Article 3 of the Convention in the event of the applicant's extradition." But the UK Home Secretary nevertheless pursued the extradition, and, relying on assurances that Mr. Aswat would be held at a psychiatric treatment center here, on September 4, 2014, the UK High Court issued a final ruling allowing the extradition to proceed. Following a brief stay issued by the European Court, Mr. Aswat's extradition is now final.

On September 13, 2012, Your Honor denied a request for appointment of counsel by Priya Chaudhry, Esq., who was then a member of the CJA panel. The government opposed Ms. Chaudhry's

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application, noting the ongoing litigation before the European Court of Human Rights, and the Court agreed that assignment of counsel was premature.

Several factors distinguish our application from Ms. Chaudhry's and merit our appointment as Mr. Aswat's counsel now. First, Mr. Aswat's transfer to this Court is imminent. There will be no further litigation in the UK. Mr. Aswat's extradition is assured, and he is expected to arrive in New York within several weeks. For these reasons, the government takes no position on our request.

Second, we are familiar with the case. In June 2014, Mr. Aswat's UK solicitor, Gareth Peirce, contacted us to request: (1) our advice concerning the government's representations about Mr. Aswat's pretrial detention in the United States; (2) assistance with plea negotiations on Mr. Aswat's behalf; and (3) that we seek appointment as Mr. Aswat's lawyers upon his possible transfer to the United States. We agreed, and for the past several months we have consulted with Ms. Peirce on a *pro bono* basis, reviewed and commented on her submissions to the UK High Court, and arranged for and participated in several conference calls with the United States Attorney's office. We have become familiar with the factual allegations in the case, reviewed excerpts from the trial transcripts of Mr. Aswat's co-defendants Oussama Abdullah Kassir and Mustafa Kamel Mustafa, learned about Mr. Aswat's medical condition and treatment needs, and participated in preliminary plea negotiations with the government and Ms. Peirce. Our appointment as counsel would help facilitate ongoing negotiations and ease a potentially difficult transition for Mr. Aswat, who for the past six years has been held at a secure psychiatric facility in the UK.

Third, we are well-qualified to handle the particular challenges of representing a defendant charged with a terrorism-related offense. We are the founding partners of Colson & Harris LLP, a criminal defense firm in New York. Admitted to practice in the Eastern and Southern Districts of New York and the Second Circuit Court of Appeals, we have both served since 2010 on the Criminal Justice Act (CJA) panels in the Southern and Eastern Districts of New York. Prior to opening our firm, we were Assistant Federal Defenders for the Federal Defenders of New York, Inc. In addition, we have both represented individuals charged with terrorism-related offenses. Together, we tried the case of *United States v. Mohammed Wali Zazi*, 10 Crim. 60 (E.D.N.Y.) (JG). Ms. Harris also represented defendants in *United States v. Taleb-Jedi*, 06 Cr. 652 (E.D.N.Y.) (BMC) and *United States v. El-Hanafi*, 12 Crim. 162 (S.D.N.Y.) (KBW). We both have top secret security clearance and have spoken and written on terrorism-related issues. In the EDNY, where there is a panel of lawyers pre-selected for terrorism case, we have both been certified to handle such matters.

Finally, Mr. Aswat is indigent and cannot afford to retain a lawyer. We have forwarded to Ms. Peirce a financial affidavit for Mr. Aswat to complete and will provide Your Honor with a copy of the completed affidavit when we receive it.

Thank you for your consideration. We are available to answer any questions the Court may have.

Ordered

Respectfully submitted,

1. Does the Government have any information of Mr. Aswat's status? When is he likely to be transferred to the U.S.?

/s/
Justine A. Harris
Deborah A. Colson

2. Does the Government have a position on the instant application?
B. Forrester, USPJ 9/30/14

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cc: AUSA John Cronan
AUSA Edward Kim